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### **DPS ADMINISTRATIVE POLICY FOR CRIMINAL OFFENDER RECORD INFORMATION (CORI) REPORTS**

This policy is applicable to the Department of Public Safety's (Department) criminal history screening of prospective and current employees, subcontractors, volunteers and interns, and professional licensing applicants. The Department works in coordination with the Department of Criminal Justice Information Systems (DCJIS) (formerly the Criminal History Systems Board (CHSB)) to ensure that criminal offender record information (CORI) reports are generated and interpreted appropriately. Accordingly, the Department adopts the following practices and procedures.

#### **I. Access to CORI**

All CORI obtained from the DCJIS is confidential and access to the information must be limited to those individuals who have a "need to know." This may include, but not be limited to, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications. The Department must maintain and keep a current list of each individual authorized to have access to, or to view, CORI. This list must be updated every six months and is subject to inspection upon request by the DCJIS at any time.

#### **II. CORI Training**

An informed review of a criminal record requires training. Accordingly, all personnel authorized to review or access CORI at the Department will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Additionally, if the Department is an agency required by M.G.L. c. 6 § 171A to maintain a CORI policy, all personnel authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with, the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

### **III. Use of Criminal History in Background Screening**

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

### **IV. Storage of CORI**

Hard copies of CORI shall be stored in a separate locked and secure location, such as a file cabinet. Employers and governmental licensing agencies shall limit access to the locked and secure location to employees who have been approved by them to access CORI.

Electronically-stored CORI shall be password protected and encrypted. Employers and governmental licensing agencies shall limit password access to only those employees who have been approved by them to access CORI.

CORI shall not be stored using public cloud storage methods.

Each employer or governmental licensing agency shall not retain CORI for longer than seven years from the date of employment or volunteer service, or from the date of the final employment or licensing decision of the requestor regarding the subject, whichever occurs later.

### **V. CORI Request Procedure**

CORI checks are conducted by the Department as authorized by DCJIS on individuals applying for the following licenses:

1. owners of amusement parks and/or traveling carnivals;
2. security systems contractors;
3. ticket resellers;
4. warehousemen;
5. horse and carriage licensees and drivers; and
6. theatrical booking agents.

All applicants for any of the licenses shown above will be notified in writing on the face of the license application that a CORI check will be conducted. The Department will provide a copy of this policy to any applicant upon request.

An applicant for licensure in any of the above listed categories will be given a CORI Request Form with their application. The CORI Request Form will be generated by the DCJIS specifically for the Department, and produced on Department letterhead. The completed form shall be submitted with the applicant's application and accompanied by a photocopy of a government-issued identification bearing a photograph of the applicant.

If a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours notice that a new CORI check will be conducted.

The Department will register annually for iCORI service, a secure web-based service through which organizations will request and receive Criminal Offender Record Information (“CORI”), at [www.mass.gov/cjis](http://www.mass.gov/cjis).

Once an applicant provides consent to conduct a criminal background inquiry, the Department shall submit a CORI request using the iCORI service. In most cases, results will be returned instantaneously.

## **VI. Verifying a Subject’s Identity**

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

## **VII. Inquiring about Criminal History**

In connection with any decision regarding employment, volunteer opportunities, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

## **VII. Determining Suitability**

If a determination is made, based on the information as provided in section VI of this policy, that the criminal record belongs to the subject and the subject does not dispute the record’s accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- (a) Relevance of the record to the position sought;
- (b) The nature of the work to be performed;
- (c) Time since the conviction;
- (d) Age of the candidate at the time of the offense;
- (e) Seriousness and specific circumstances of the offense;
- (f) The number of offenses;
- (g) Whether the applicant has pending charges;
- (h) Any relevant evidence of rehabilitation or lack thereof; and
- (i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The Department will utilize Table of Offenses (Tables A-C) specific to each category of licensure, which are appended to this Policy, for determining suitability for licensure.

**Presumptive Disqualification-Table A Offenses:**

Applicants with a conviction for an offense listed in Table A shall be presumptively disqualified by the Department and therefore unsuitable for licensure. The Department shall immediately notify applicants with a presumptive disqualification of the Department's decision based upon the CORI report. Applicants with a presumptive disqualification who wish to be considered for licensure following notification by the Department of unsuitability based on the CORI report shall promptly submit a letter of reference from one of the following:

- the current probation officer;
- the district attorney responsible for prosecution of the offense for which the individual was found guilty; or
- the judge presiding over the trial of the offense for which the individual was found guilty.

Following the receipt of a letter of reference from any of the above individuals, the Department will review the information. The presumptive disqualification shall be overturned only if letters of reference clearly and convincingly state that the applicant is highly unlikely to re-offend or pose a danger to vulnerable parties.

**Discretionary Disqualification-Table B and C Offenses:**

**Table B Offenses:**

Applicants with a conviction for an offense within Table B may be discretionarily disqualified by the Department and therefore initially unsuitable for licensure. The Department shall immediately notify applicants with a discretionary disqualification based on a Table B offense of the Department's decision based upon the CORI report. Applicants with a discretionary disqualification who wish to be considered for licensure following notification by the Department of their initial unsuitability based upon their CORI report shall promptly submit a letter of reference from one of the following:

- the current probation officer;
- the district attorney responsible for prosecution of the offense for which the individual was found guilty;
- the judge presiding over the trial of the offense for which the individual was found guilty; or
- a treating mental health professional.

Following the receipt of a letter of reference from any of the above individuals, the Department will review the information. The disqualification shall be overturned upon a determination that the letter(s) show that the applicant is highly unlikely to re-offend or pose a danger to vulnerable parties.

Additional mitigating information the Department may consider in making a hiring or licensing decision on a Table B discretionarily disqualified applicant shall include:

- a. time since the conviction;
- b. the age of the applicant at the time of the offense;
- c. the nature of the work to be performed by the applicant;
- d. the seriousness of the specific circumstances of the offense;
- e. the number of offenses;
- f. any relevant evidence of rehabilitation or lack thereof;
- g. any other relevant information, such as letters of reference.

#### Table C Offenses:

Applicants with a conviction for an offense within Table C may be discretionarily disqualified by the Department and therefore initially unsuitable for licensure. The Department shall immediately notify applicants with a discretionary disqualification based on a Table C offense of the Department's decision based upon the CORI report. Applicants with a discretionary disqualification who wish to be considered for licensure following notification by the Department of their initial unsuitability based upon their CORI report shall promptly submit additional information for the Department's consideration. Such information may include letters of reference from the current probation officer, the prosecuting attorney, the presiding judge and/or a treating mental health professional, but such letters are not necessarily required. Additionally, the Department may consider the mitigating factors listed above.

Following the receipt of additional information, the Department will review the information. The disqualification shall be overturned upon a determination that the additional information shows that the applicant is highly unlikely to re-offend or pose a danger to vulnerable parties.

The applicant is to be notified of the decision and the basis for it in a timely manner.

### **VIII. Adverse Decision Based on CORI**

If an authorized official is inclined to make an adverse decision based on the result of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DCJIS' *Information Concerning the Process for Correcting a Criminal Record*.

### **IX. Secondary Dissemination Logs**

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of CORI outside of the organization, including dissemination at the request of the subject.